

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

**PLAN FOR THE
ESTABLISHMENT AND ADMINISTRATION
OF THE
DISTRICT COURT FUND
AND
REGULATIONS GOVERNING REIMBURSEMENT FROM
THE DISTRICT COURT FUND**

Revised June 1, 2010

PLAN FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE DISTRICT COURT FUND

A. Creation of the Fund; Purpose of the Plan

A District Court Fund was created by Local Rule 83.15 of this Court promulgated on June 1, 2000. Local Rule 83.5 of the Central District of Illinois Rules, as amended on the January 18, 2005, requires newly admitted attorneys to pay an additional \$35.00 fee to the Clerk in addition to that established by the Judicial Conference of the United States pursuant to 28 USC §1914. This *Plan* provides for the additional admission fees to be deposited in the “Central District of Illinois District Court Fund”, hereinafter referred to as “*Fund*.” This *Plan* is adopted to provide procedures for the administration of monies deposited in the *Fund*.

B. Bench and Bar Committee and Advisory Committee

There shall be a Bench and Bar Committee to review pro bono attorney, second-chair attorney, and guardian ad litem requests for normal fees and expenses, expert witness fees, and other case related expenses for payment from the District Court Fund. The Bench and Bar Committee shall also review all other requests for expenditure of funds over a \$1000.00 threshold. Recommendations from the Bench and Bar Committee shall then be submitted to the Advisory Committee for final approval. The Bench and Bar Committee shall consist of the Chief Judge, two attorneys from the Peoria Division, two attorneys from the Urbana Division, two attorneys from the Springfield Division, and one attorney from the Rock Island Division of the Central District of Illinois.

There shall be an Advisory Committee to make decisions on matters of policy relating to the administration of the *Fund* and final determination of requests for reimbursement over \$1,000.00. The Advisory Committee shall consist of the Chief Judge, all the active District Judges in the Central District of Illinois, and the Clerk of Court.

C. Policies for Fund Expenditure

In general, the monies deposited in the *Fund* are to be used for the benefit of the Bench and Bar in the administration of justice. Examples of proper common uses of attorney admission funds include, but are not limited to, the following:

- (1) Attorney admission proceedings, including expenses of admission committees and admission ceremonies.
- (2) Attorney discipline proceedings, including, but not limited to, expenses of investigating counsel for disciplinary enforcement, stenographers, meeting room rentals, postage, travel expenses and fees of witnesses.

- (3) Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. Examples:
 - furniture;
 - photocopiers and fax machines;
 - beverage supplies or service;
 - microwave, refrigerator and other appliances; and
 - television, telephone and internet service.
- (4) Surety Bond for the custodian of the *Fund*. (The bond may only cover monies in the *Fund*.)
- (5) Fees for services rendered by outside auditors or accountants in auditing the *Fund*.
- (6) Reimbursement of pro bono counsel for out-of pocket expenses, payment of compensation to pro bono counsel, and payment of witness fees and other expenses for indigent pro se civil litigants.
- (7) Reimbursement to jurors for lost or damaged personal property incident to their jury service, when compensation is not available under a statute such as the Federal Tort Claims Act.
- (8) Hospitality items (e.g. food, beverages, mementos) for which appropriated funds may not be used, including meals and beverages for judges and employees attending a bench/bar meeting or similar event at their official duty station in a non-official capacity.
- (9) Cash donations to law-related educational or charitable organizations, such as a historical society, law school, or bar association, for purposes that advance the administration of justice in the courts. In considering such donations, care should be exercised to avoid the appearance of impropriety, undue favoritism, conflicts of interest and other concerns under the *Codes of Conduct for United States Judges and Judicial Employees*.
- (10) Expenses of circuit judicial conferences, to the extent permitted by the policy of the Judicial Conference of the United States.
- (11) The expenses of the *Plan*'s Bench and Bar Committee and Advisory Committee;
- (12) The expenses and reasonable fees of guardians ad litem appointed by the court to represent minors or other incompetent parties in proceedings in this court.
- (13) The cost of mementos, not to exceed \$100.00 per individual, for visiting judges or other dignitaries.

- (14) For the purpose of training criminal defense counsel, the out-of-pocket expenses and reasonable fees for attorneys to second chair cases covered by the Criminal Justice Act (Title 18 U.S.C. 3006A) where the Act will not cover such expenses and fees.
- (15) Expenses associated with providing continuing legal education for the bench and bar, including presenting or co-sponsoring seminars.
- (16) Expenses of non-judiciary members serving on bench-bar committees, task forces, or similar groups established by the Court to advance the work of the Court.
- (17) Any other expenses for which appropriated funds may not legally be used that will benefit the bench and the bar in the administration of justice.

D. Limitations on Use of Attorney Admission Fund

Attorney admission funds must not be used to pay for goods or services for which appropriations may legally be used, even if the appropriated funds are exhausted or otherwise not available (e.g., because an expenditure would exceed a judiciary spending limit). Use of attorney admission funds for any purpose for which appropriated funds may legally be used constitutes an impermissible augmentation of appropriations.

Notwithstanding the rule against augmentation, attorney admission funds may be used to purchase books, periodicals and other resource materials for court libraries for which appropriated funds may also be used. This exception was recognized by the General Accounting Office (now Government Accountability Office) in the opinions cited in § 1210.40 of Volume 13, Chapter 12, *Guide to Judiciary Policy*.

Attorney Admission funds must not be used to supplement the salary of any judge or court employee, or provide a personal benefit to any judge or court employee, or his or her family member. As a limited exception, a judge or court employee, or his or her family member, may receive a *de minimis* personal benefit incidental to a proper expenditure from the attorney admission fund, e.g. meals, refreshments or hospitality items.

Attorney admission funds must not be used to pay for official or personal travel by a judge or court employee or by his or her family member. As a limited exception, attorney admission funds may be used to pay for local transportation of a judge or court employee to attend bench/bar events. Attorney admission funds must not be used to pay for the printing of local rules.

The Court must avoid unreasonable accumulation of attorney admission funds.

E. Custodian of the Fund

Pursuant to Rule 83.15, the Clerk of this Court is the custodian of the District Court

Fund. In the event of the death, retirement, or resignation of the Clerk, the Chief Deputy Clerk, or such other person as the Chief Judge designates, shall become the custodian until such time as the next Clerk assumes office.

F. Duties and Responsibilities of the Custodian

The responsibilities of the custodian are as follows:

- (1) Receive, safeguard, deposit, disburse, and account for all monies in the *Fund* in accordance with any pertinent laws, this *Plan*, and the policies established by the Court;
- (2) Secure a bond, to be paid for from the *Fund*; if required by the court.
- (3) Monitor the accounting system of the *Fund*.
- (4) Ensure that financial statements and operating reports are prepared in a timely fashion and include the following:
 - beginning balance of assets;
 - revenue during reporting period: collections, investment;
 - disbursements during reporting period;
 - ending balance of assets
 - obligations, accounts payable or known future expenditures; and
 - available balance.
- (5) Deposit or invest monies of the *Fund*.
- (6) Perform such other functions as the court may direct.

G. Responsibilities Upon Appointment of Successor Custodian

When a successor custodian is appointed, the outgoing custodian shall prepare and sign the following statements in conjunction with the exit audit or inspection conducted by an auditor or disinterested inspector designated by the Chief Judge.

- (1) A statement of assets and liabilities;
- (2) A statement of operations or of receipts and disbursements since the last statement of operations and net worth, up to the date of transfer to the successor custodian; and
- (3) A statement of the balance in any *Fund* accounts as of the date of transfer to the successor custodian.

The successor custodian will execute a receipt for all funds after being satisfied as to the accuracy of the statements and records provided by the outgoing custodian. Acceptance may be conditioned upon audit and verification when circumstances warrant.

H. Maintenance of Funds

All monies of the attorney admission fund must be deposited only in federally insured banks or savings institutions. When practical and feasible, all substantial sums should be placed in interest-bearing accounts, government securities, or money market funds invested in government obligations, at the direction of the Chief Judge or Advisory Committee. All funds held by the custodian must be segregated from all other monies in the custody of the Court.

The *Fund* is subject to audit by the appropriate staff of the Administrative Office of the United States Courts. The Chief Judge may appoint an auditor or disinterested inspector (who may be a government employee) to conduct such additional audits as the Court determines may be necessary or appropriate. The written results of such audit or inspection will be provided to members of the Advisory Committee, and, upon request, any members of the bar of the Court. Reasonable compensation may be provided from *Fund* assets if the auditor is not a government employee acting in an official capacity.

The Custodian of the *Fund* will provide an accounting to the Advisory Committee at least annually.

I. Dissolution of the Fund

The Court may issue an order of dissolution of the *Fund*. Should this Court decide to dissolve the *Fund*, the Custodian will liquidate all outstanding obligations prior to the dissolution, including making provisions for the payment of all fees and expenses resulting from the required final audit or inspection. A final audit shall be performed prior to dissolution of the *Fund* and a written accounting provided to the Court. The Court will direct the disposition of the assets of the *Fund* in ways which fulfill the purpose of the *Fund*.

REGULATIONS GOVERNING REIMBURSEMENT FROM THE DISTRICT COURT FUND

A. ELIGIBILITY FOR REIMBURSEMENT OF EXPENSES

(1) When a trial bar attorney has been appointed, pursuant to the *Plan*, to represent an indigent party in a proceeding before this Court, including, but not limited to, a request for counsel pursuant to 28 USC 1915(d) or an Appointment of Counsel pursuant to Local Rule 83.5 (J), that attorney may petition the Court for reimbursement of fees and expenses incurred in the preparation and presentation of the proceeding, subject to the restrictions of these regulations.

(2) When a guardian ad litem has been appointed pursuant the *Plan*, to represent the interests of a minor or other incompetent party in a proceeding in this court, that guardian may petition the Court for reimbursement of expenses incurred in the preparation and presentation of the proceeding, subject to the restrictions of these regulations.

(3) The Chief Judge may approve payment or reimbursement up to \$100.00 each for the purchase of mementos for each visiting judge or other dignitary up to a total of \$1000.00 for any group of judges or dignitaries. The Chief Judge will not approve payment or reimbursement for any gift that, in the Chief Judge's opinion, might place any of the court's officers or employees in violation of the applicable Code of Conduct.

(4) Other expenses falling under Section C of the *Plan*.

B. LIMITATIONS ON ELIGIBILITY FOR REIMBURSEMENT

(1) Not Applicable if Criminal Justice Act Funds are Available

In any proceeding where expenses are covered by the Criminal Justice Act (Title 18 U.S.C. 3006A), they shall be paid from such funds in accordance with CJA guidelines and not from the *Fund*.

(2) Limit on Total Expenses and Fees Covered by the Fund

The presiding Judge in a case in which either an attorney or a guardian ad litem has been appointed pursuant to the *Plan* is authorized to approve the following:

- a. reimbursement of out-of-pocket expenses not to exceed \$1,000.000 per proceeding.
- b. payment of reasonable attorneys fees incurred by the attorney or guardian ad litem not to exceed the CJA rate then in effect.

If the total of the reimbursement for expenses or the total of the payment of fees requested exceeds the maximums stated above, the presiding Judge shall forward the requests for review by the Bench and Bar Committee for their recommendation. This recommendation will then be sent to the Advisory Committee for final determination. In no event will more than the CJA maximum rate be paid in a single proceeding, unless otherwise ordered by the Advisory Committee.

(3) Limited to Actions Before the District Court

Only those expenses and fees associated with this District shall be approved for reimbursement. No fees, costs or expenses associated with an appeal shall be reimbursed from the *Fund* unless otherwise approved by the Advisory Committee upon prior application by the appointed attorney or guardian.

(4) Overhead Costs, Costs of Computer Assisted Legal Research, and Costs of Printing Briefs Not Covered

General office expenses, including personnel costs, rent, telephone services, secretarial help, office photocopying equipment, and any general expense that would not normally

be reflected in the fee charged to a client are not reimbursable from the *Fund*. Any costs incurred in conducting computer assisted legal research is not reimbursable from the *Fund*. The expense of printing briefs, regardless of the printing method utilized, is not reimbursable.

(5) Not Available to Pay Costs Awarded Against Party

Under no circumstances shall any payments be authorized from the *Fund* to pay for costs or fees taxed as part of a judgment obtained by an adverse party against a party for whom counsel was appointed pursuant to the rules of this Court.

(C) PROCEDURES FOR OBTAINING REIMBURSEMENT

(1) Request for Reimbursement of Fees and Expenses

Any request for reimbursement of fees and expenses shall be on the voucher form approved by the Advisory Committee and available on request from the Clerk of Court and posted on the Court's website: www.ilcd.uscourts.gov . The request shall be accompanied by sufficient documentation to permit the court to determine that the request is appropriate and reasonable and that the amounts for expenses have actually been paid out. The request shall be submitted to the Judge to whom the case is assigned. Requests may be made at any time during the pendency of the proceedings and up to sixty (60) days following the entry of judgment in the proceedings. The assigned Judge may for good cause shown, extend the time for filing a request.

The Judge to whom the case is assigned is authorized to approve reimbursements not to exceed One Thousand Dollars (\$1,000.00). In complex, protracted cases, counsel may petition the assigned Judge for additional reimbursement. The assigned Judge will present the petition and his recommendation to the Bench and Bar Committee for guidance. The Bench and Bar Committee will then make a recommendation to the Advisory Committee regarding requested fees and expenses. The Advisory Committee shall make the final determination. In no event will more than the CJA maximum hourly rate and case limit in such out-of-pocket expenses and fees be paid in any one proceeding, unless otherwise ordered by the Advisory Committee.

In the event the party represented is ultimately successful on the merits and is awarded costs and attorney's fees, the out-of-pocket fees and expenses paid pursuant to this *Plan* shall be included in the total award. Upon receipt of the award funds, the paid fees and expenses shall be redeposited into the District Court Fund.

(2) Requests for Reimbursement by Attorney No Longer Representing Party

When an attorney appointed under this Court's pro bono rules is permitted to withdraw from representing the party in a proceeding and the attorney is entitled to payment of fees or has incurred expenses which may be reimbursable under these regulations, said

attorney shall submit a request for reimbursement to the presiding judge within sixty (60) days of the date of the entry of the order allowing the withdrawal. Except for good cause shown, the Court will not allow reimbursement of fees or expenses where the request was filed more than sixty (60) days after the entry of the order of withdrawal.

(3) Requests for Payment of Attorney Fees of a Guardian Ad Litem

Requests for payment of attorney fees of a guardian ad litem shall be submitted to the presiding judge no later than sixty (60) days after the conclusion of the matter. The request shall be submitted on the voucher form approved by the Advisory Committee along with sufficient documentation to permit the Court to determine that the fees and expenses requested are reasonable and appropriate.

In a civil case where a guardian ad litem is appointed under Fed.R.Civ.P.17(c) by a Judicial Officer of this court to represent the interests of an unrepresented minor or other incompetent person in a case pending in this District, the Judicial Officer to whom the case is assigned may authorize the payment from the *Fund* of out-of-pocket expenses incurred and not otherwise recoverable, not to exceed \$1,000.00.

In addition to out-of-pocket expenses, if a court-appointed guardian ad litem is an attorney or if a non-attorney guardian ad litem is authorized by this Court to retain counsel, the presiding judge may approve payment of the guardian's reasonable attorneys fees from the *Fund*, not to exceed \$1,000.00.

In complex or protracted cases, the guardian ad litem may petition the presiding judge for additional reimbursement. The assigned Judicial Officer shall present the request and a recommendation to the Bench and Bar Committee for guidance. The Bench and Bar Committee will then make a recommendation regarding the requested fees. The Advisory Committee shall make the final determination. In no event will more than the CJA rate and case limit be paid in any one proceeding, unless otherwise ordered by the Advisory Committee.

In any case in which a monetary judgment is entered in favor of the party on whose behalf the guardian ad litem was appointed, the fees and costs paid by the *Fund* shall be repaid by that party to the *Fund* to the extent permitted by the amount of the judgment and the interests of justice.

(4) Requests May Be Made Ex Parte

Any request made under sections (1), or (2), or (3) of this regulation may be made *ex parte*.

(5) Action by Assigned Judge, Bench and Bar Committee, and/or Advisory Committee

Any of the above may refuse to permit reimbursement of any expense or payment of

attorney fees that lacks documentation of appropriateness and reasonableness or that lacks evidence that the expense was actually paid or the fees actually incurred.

(6) Processing by the Clerk

Upon receipt of approval of payment of expenses or fees, the Clerk shall check to determine whether or not any payments have previously been made out of the *Fund* to cover expenses in the same proceeding. If no such payments have been made, the Clerk shall promptly issue the required check or checks in the amount(s) indicated on the voucher. Where reimbursements have previously been made from the *Fund* for expenses in the proceeding, the Clerk will check to see if the amounts authorized by the current voucher together with amounts previously paid would require additional review by the Bench and Bar Committee and the Advisory Committee or where the additional voucher would cause the case limit set by these regulations to be exceeded.

Where such approval is required, the Clerk shall promptly advise the assigned Judge for possible reconsideration and/or possible transmittal to the Bench and Bar Committee and the Advisory Committee.

(D) FEES, EXPENSES, AND COSTS COVERED BY REGULATIONS

(1) Criminal Justice Act Limits to Apply in Absence of Specific Limits

Except as specified by these regulations, the amounts and types of expenses covered by these regulations shall be governed by the guidelines for administering the Criminal Justice Act (18 U.S.C. 3006A) [*Guide to Judiciary Policy*, Vol. 7, Part A].

(2) Deposition and Transcript Costs

The costs of transcripts or depositions shall not exceed the regular copy rate as established by the Judicial Conference of the United States and in effect at the time any transcript or deposition was filed unless some other rate was previously provided for by order of court. Except as otherwise ordered by the Court, only the cost of the original of any transcript or deposition together with the cost of one copy each where needed by counsel will be authorized.

(3) Travel Expenses

Travel by privately owned automobile may be claimed at the rate currently prescribed for federal judiciary employees who use a private automobile to conduct official business, plus parking fees, tolls, and similar expenses. **Travel other than by privately owned automobile may be claimed on an actual expense basis and must be approved prior to the travel by the Judge to whom the case is assigned.**

Subsistence is not allowed; only actual expenses may be reimbursed. Actual expenses reasonably incurred shall be guided by the prevailing limitations placed upon travel and

subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.

(4) Service of Papers; Witness Fees

Those fees for service of papers and the appearances of witnesses that are not otherwise avoided, waived or recoverable may be reimbursed from the *Fund*.

(5) Interpreter Services; Expert Witness Fees

Costs of interpreter services and expert witness fees up to the CJA maximum rate, not otherwise avoided, waived, or recoverable may be reimbursed from the *Fund*. Attorney should file a motion with the Court prior to incurring such expenses.

(6) Costs of Photocopies, Photographs, Telephone Toll Calls, Telegrams

Except as specified in section (4) of Regulation B, actual out-of-pocket expenses incurred for items such as photocopying services, photographs, telephone toll calls, and telegrams necessary for the preparation of a case may be reimbursed from the *Fund*.

(7) Other Expenses

Expenses other than those described in section (2) through (6) of this regulation may be approved by the presiding judge. When requesting reimbursement of any expenses under this section, a detailed description of the expenses should be attached to the request for reimbursement.